IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8988 of 1995
with
CIVIL APPLICATION No. 7925 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

DALSUKHBHAI CHATURBHAI PRAJAPATI
Versus
COMPETENT AUTHORITY AND ADDL COLLECTOR U L C

Appearance:
MR MC BHATT for Petitioners
Ms.BINODA (KATHA) GAJJAR, A.G.P. for Respondent No.1, 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 08/11/2000

ORAL JUDGEMENT

1. These two cases are proposed to be disposed of by common judgment and order.

2. The prayer in Special Civil Application No. 8988 of 1995 is firstly for quashing the order dated 7.9.1995 (Annexure : F) passed by the Competent Authority, Vadodara, the respondent No.1, under the Urban Land (Ceiling & Regulation) Act. The other prayer is for writ

of mandamus directing the respondent No.2 to constitute Tribunal under the ULC Act for Vadodara area.

3. During the pendency of this Special Civil Application ULC Act was repealed with effect from 30.3.1999 as adopted in the State of Gujarat. Thereupon Civil Application No.7925 of 1999 was moved in which prayer has been made that consequent upon repeal of ULC Act with effect from 30.3.1999 Special Civil Application has become infructuous and as such the said Special Civil Application be dismissed as infructuous and interim order passed in the aforesaid Special Civil Application on 20.11.1995 be also vacated and the petitioner be permitted to withdraw a sum of Rs.1,12,200/- deposited in the Court in pursuance of the aforesaid interim order.

4. Shri M.C.Bhatt, learned Counsel for the petitioner and Ms.Katha Gajjar, learnd A.G.P. for the respondents have been heard.

5. Shri M.C.Bhatt points out that possession of the land has not been taken over by the State Government and that the petitioner is still in possession of thee show called excess land. It has not been argued from the side of the respondent that possession of the land has been taken over by the State Government. Consequently after repeal of ULC Act the writ petition, which is also a proceeding, has abated and has become infructuous. If the writ petition has become infructuous then it has to be dismissed as infructuous. As a consequence thereof interim order dated 20.10.1995 has also to be vacated.

6. So far as the request of Shri M.C.Bhatt is concerned that an order be passed for refund of Rs.1,12,200/- lying in Fixed Deposit the objection of the learned A.G.P. is that the above amount is the result of maturity amount of initial deposit of Rs.1650/- per unit with respect to 68 uncompleted units in the nature of penalty hence this amount cannot be ordered to be refunded to the petitioner rather it has go to the State exchequers. The reply of Shri M.C.Bhatt to this contention is that since this petition has become infructuous he is unable to go into the merit of the petition otherwise he would have convinced the Court that the tentative deposit in the nature of penalty is also uncalled for. However, if interim order is to be vacated then it goes as a whole and consequent of vacation of interim order the amount deposited by the petitioner has to be paid to the petitioner.

7. With the above observation Special Civil

Application No. 8988 of 1995 is dismissed as infructuous with no order as to costs.

8. Civil Application No. 7925 of 1999 is allowed. Interim order dated 20.10.1995 is hereby vacated. The amount lying in Fixed Deposit which was deposited by the petitioner in compliance of interim order dated 20.10.1995 shall be refunded to the petitioner together with interest.

Date : November 08, 2000 (D. C. Srivastava, J.)
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